

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JASON LEE SUTTON,

Plaintiff,

v.

STATE OF WASHINGTON, *et al.*,

Defendants.

Case No. C04-5642FDB

SECOND ORDER DENYING
COUNSEL

This Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1)(B). Before the court is plaintiff's motion for appointment of counsel. (Dkt. # 57). This is the second such motion in this action. This motion is in letter form and addressed to a court employee Sharon Haas. (Dkt. # 57). As the court explained before.

There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. § 1915(d), can request counsel to represent a party proceeding *in forma pauperis*, the court may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the

1 merits and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues
2 involved. Wilborn, 789 F.2d at 1331.

3 It appears that this case does not involve exceptional circumstances which warrant appointment of
4 counsel. Accordingly, Plaintiff's Motion to Appoint Counsel is **DENIED**.

5 The clerk is directed to send copies of this order to plaintiff and remove docket number 2 from the
6 court's calendar.

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8 DATED this 14th day of June, 2005.

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10 /S/ J. Kelley Arnold
11 J. Kelley Arnold
12 United States Magistrate Judge
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